

Summary  
Water Pollution Control Board  
Indiana Government Center North  
Conference Room A  
Indianapolis, Indiana  
Wednesday, February 9, 2011

**1. CALL TO ORDER**

Chairman Gary Powdrill called the meeting to order at 1:34 p.m. A quorum was present.

Chairman Powdrill welcomed three new board members. Those members were Erin Crofton, representing environmental; Mike Mettler, proxy for the State Department of Health, and Mike Neyer, proxy for the Department of Natural Resources. He added that Brad Moore was substituting for Pam Fisher who is proxy for Indiana Economic Development Corporation.

Members present: Gary Powdrill; Ken Hedge; Ted Alexander; Erin Crofton, Brandon Seitz; Brad Moore; Mike Neyer; Mike Mettler and, Deborah Albright.

Present for IDEM: Bruno Pigott, Assistant Commissioner, Office of Water Quality (OWQ); Martha Clark Mettler, Deputy Assistant Commissioner, OWQ and Nancy King, Chief, Rules Development Branch, Office of Legal Council (OLC).

**2. INTRODUCTION OF BOARD MEMBERS**

Chairman Powdrill asked the board members to introduce themselves and their affiliations.

**3. APPROVAL OF SUMMARY**

Chairman Powdrill called for approval of the November 10, 2010, meeting summary. A motion was made and duly seconded to approve the meeting summary. The board voted unanimously to approve the November 10, 2010, summary without changes.

**4. REPORTS**

Mr. Bruno Pigott discussed the following topics:

- NPDES Permitting Backlog – details on the issuance of new permits to United States Steel Midwest Facility in January and ArcelorMittal Burns Harbor Facility in February. There were two more permits to be processed before the agency is up-to-date.
- Streamlined Rulemaking Schedule Chart – briefing on the status of the listed rulemakings.
- Antidegradation - Ms. Martha Clark Mettler reminded the board that the Commissioner continues to review the packet. Program staff members are working on the fiscal impact package.
- 303(d) Impaired Water Listing – Ms. Mettler recalled that the draft 303(d) list was presented to the board last fall and has since been finalized. She stated that early this year, the agency submitted it to EPA for approval. Ms. Mettler further stated that she anticipates EPA will request some changes be made to the 303(d) list and if this occurs, it's required to come before the board again with the EPA changes.

**5. RULE ACTIONS**

Emergency Rules for Concentrated Animal Feeding Operations (CAFO)

Chairman Powdrill opened the board meeting for consideration of adoption of the CAFO emergency rules under IC 4-22-2-37.1. He announced that, if adopted, the emergency rule would become effective on February 17, 2011. He acknowledged that this would be the second 90-day extension for this emergency rule.

Ms. Nancy King spoke for the agency. She briefly discussed that the emergency rule added language to conform to the existing federal law relating to applicability. She clarified how the CAFOs were affected when a federal court decision struck down federal rule language of “discharge or potential to discharge” and instead required that the rule language be changed to “discharge or propose to discharge.”

Ms. King discussed how the Confined Feeding Operations (CFO) rule and the CAFO rule will work together. She expressed that the agency would like to have the same compliance dates for both rules.

There was no board discussion.

Chairman Powdrill entertained a motion to adopt the proposed emergency rule. Mr. Ted Alexander made a motion to adopt the proposed emergency rule and Mr. Mark Legan seconded it. With a roll call vote, the board voted unanimously to adopt the proposed emergency rule as presented.

#### Emergency Rule for NPDES Pesticide General Permit (PGP)

Chairman Powdrill announced that the board is being asked to adopt an emergency rule that would provide IDEM with the authority to administratively issue NPDES Pesticide General Permits. He also noted that if the emergency rule is adopted, it will become effective on February 16<sup>th</sup>.

Mr. Pigott gave a PowerPoint presentation on, “Pesticide General Permits Emergency Rule and General Permits” to explain the purpose of the emergency rule and IDEM’s plans for existing general permits by rule. He explained the procedural steps for adopting NPDES general permit rules; however, he acknowledged that EPA had several concerns about IDEM’s NPDES general permit program.

Mr. Pigott, Ms. Mettler, and Ms. King reiterated that the emergency rule would provide IDEM with administrative authority to issue NPDES permits for this category only.

Chairman Powdrill announced that there was one public commenter to speak on this subject. Mr. Dan Weiss, Duke Energy Indiana, Director of State and Environmental Energy Public Affairs, expressed several concerns about the emergency rule.

Thereafter, Chairman Powdrill called for board discussion. He then entertained a motion to adopt the proposed emergency rule. Mr. Ted Alexander so moved and Ms. Erin Crofton seconded. With a roll call vote, the board voted (7-1) in favor of adopting the proposed emergency rule as presented.

#### **7. OPEN FORUM**

There was one public commenter. Ms. Tamara Gomtovnik asked questions pertaining to IDEM’s plans for developing another NPDES general permit rule.

#### **8. ADJOURNMENT**

The next meeting is tentatively scheduled for 1:30 p.m. EST on Wednesday, March 9, 2011, in Indiana Government Center South Conference Room A. Chairperson Powdrill adjourned the WPCB meeting at 3:04 p.m.

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#### **CHAIRPERSON**

The summary is derived from Rules Development Branch staff members’ notes; however, a court reporter recorded this meeting. A typewritten transcript of the entire meeting is on file in the Office of Legal Counsel, Indiana Department of Environmental Management. To view approved summaries or minutes, you may go online to <http://www.in.gov/idem/4707.htm>